

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Wednesday, October 1, 1997

DIVISION TWO

**A077819 Allen-Pacific, Ltd. v. The Superior Court of San Francisco County,  
Yee Yim Chan et al.**

Let a peremptory writ of mandate issue directing the respondent court to vacate that portion of its discovery order dated January 30, 1997 denying petitioner's motion to deem admitted matters covered in its request for admissions and for monetary sanctions, and enter a new and different order granting said motion. Petitioner shall be awarded costs. (Cal. Rules of Court, rule 56.4.) Kline, P.J. We concur: Lambden, J., Ruvolo, J. (Certified for Publication.)

**A074613 Dennis Detoy, et al. v. Jack J. Metallinos**

The judgment is affirmed. Haerle, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Thursday, October 2, 1997

DIVISION TWO

**A075264 Michael W. Forrest et al. v. John M. Baeza et al.**

The order granting in part and denying in part the motion for disqualification is affirmed. Kline, P.J. We concur: Haerle, J., Lambden, J. (Certified for Publication.)

**A075357 Arlington Investment Company v. Benjamin D. Tarcher et al**

The judgment is reversed. Costs are awarded to appellant. Kline, P.J.  
We concur: Haerle, J., Ruvolo, J. (Certified for Publication.)

DIVISION THREE

**A079415 County of Mendocino v. Jason Stevens, Curtis Allen**

The above-entitled appeal is ordered transferred from Division Three to Division Five of this court. The related appeal having been previously assigned to Division Five, requires by this court's Internal Operating Practices and Procedures, Section 21(b), to transfer this case to Division Five. This order is made pursuant to Rule 20(b) (1) of the California Rules of Court. Strankman, A.P.J.

Thursday, October 2, 1997 (continued)

DIVISION THREE

**A079444 Nina D. v. The Superior Court of San Mateo County, San Mateo County Department of Social Services.... R.P.I.**

The petition for extraordinary relief is denied on the merits. (See Cal. Const., art. VI, 14; *Kowis v. Howard* (1992) 3 Cal. 4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal. 3d 1012, 1024.)

The section 366.26 hearing was set for October 1, 1997. Therefore, our decision is final in this court immediately. Phelan, P.J. We concur: Corrigan, J., Parrilli, J.  
(Not for Publication.)

**A073185 The People ex rel. Department of Transportation v. Sutta Company, Inc.**

The judgment is affirmed. Corrigan, J. We concur: Phelan, P.J., Walker, J.  
(Not for Publication.)

**A075205 Elizabeth Naomi Van Horn v. Andrew Lyman Wilson**

Here, the trial court had jurisdiction to modify the order under Family Code section 6345 and Code of Civil Procedure section 533, as well as under its inherent power to modify or dissolve orders of an continuing nature. (*Sontag Chain Stores Co. v. Superior Court, supra*, 18 Cal.2d at pp. 94-95; *City of San Marcos v. Coast Waste Management, Inc., supra*, 47 Cal. App. 4th at p. 328.) Wilson has not demonstrated that the court abused its discretion in issuing the modified order, which included the Evans Hall “stay-away.” The trial court’s order is affirmed. Phelan, P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

**A076492 The People v. Tamasha Michelle Wright**

The judgment is affirmed. Corrigan, P.J. We concur: Parrilli, J., Walker, J.  
(Not for Publication.)

**A074668 Robert J. and Janice Ramirez v. ACandS, Inc.**

We affirm the judgment of the trial court. Walker, J. We concur: Phelan, P.J. Corrigan, J. (Not for Publication.)

## DIVISION FOUR

### **A076338 Patric Hooper et al. v. The Recorder**

The judgment is affirmed with costs to respondents. Respondents' attorney's fees on appeal (Code Civ. Proc., 425. 16, subd. (c)) are left for the determination of the trial court. Hanlon, J. We concur: Pochè, Acting P.J., Reardon, J. (Not for Publication.)

## DIVISION FIVE

### **A074756 The People v. Ben Estus Terry, Jr.**

The judgment is affirmed. Haning, J. We concur: Peterson, P.J., Jones, J. (Not for Publication.)

### **A074858 The People v. William Joseph Newport**

The judgment is affirmed. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

### **A077099 In re Robert S. a minor**

We find no arguable issues on appeal. There was no error in either the entry of the plea or in the sentencing. The judgment is affirmed. Jones, J. We concur: Peterson, P.J., Haning, J. (Not for Publication.)

### **A075487/A076657 Robert Silber, et al. v. City of Arcata**

In No. A076657, the judgment is affirmed. In No. A075487, the judgment is affirmed in part, reversed in part, and remanded to allow the trial court to enter a new cost award consistent with the views expressed in this opinion. Jones, J. We concur: Peterson, P.J., Haning, J. (Not for Publication.)

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Friday, October 3, 1997

DIVISION ONE

**A077048 Cheryl Casciani v. Workers' Compensation Appeals Board, City of Sonoma et al.**

The Board's opinion and order granting reconsideration and decision after reconsideration dated December 20, 1996, is annulled. The matter is remanded with instructions to reinstate the WCJ's joint findings, award, and order and joint opinion on decision dated October 3, 1996. Dossee, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

**A078431 The People v. Mark Alan Forner**

There was no sentencing error. There are no legal issues that require further briefing. The judgment is affirmed. Stein, Acting P.J. We concur: Dossee, J., Swager, J. (Not for Publication.)

**A074849 The People v. Ramon Alfonso Aguilar**

The judgment is affirmed. Swager, J. We concur: Stein, Acting P.J., Dossee, J. (Not for Publication.)

DIVISION TWO

**A073953 The People v. Anthony William Scott**

The judgment is affirmed. Lambden, J. We concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

Friday, October 3, 1997 (continued)

DIVISION THREE

**A075484 In re Joseph., a Person Coming Under the Juvenile**

The judgment, findings, orders and disposition of the juvenile court are affirmed.  
Phelan, P.J. We concur: Corrigan, J., Parrilli, J.

DIVISION FOUR

**A075581 The People v. Certain Real Property Situated in Mendocino County**

The request of respondent the People of the State of California, for publication of this court's September 8, 1997, opinion is granted and it is hereby ordered that said opinion be published in the Official Reports. Hanlon, J. Acting P.J.

DIVISION FIVE

**A075042 Kirkland Cattle Company et al. v. Napa Sanitation District**

The award of costs to respondents is reduced by \$246.65. The judgment is otherwise affirmed. Respondents shall recover their costs on appeal. Haning, J.  
We concur: Peterson, P.J., Jones, J. (Not for Publication.)

**A076947 In re William G., a Person Coming Under the Juvenile Court Law.**

The judgment is affirmed. Jones, J. We concur: Peterson, P.J., Haning, J.  
(Not for Publication.)

**A076526 The People v. Kenton Michael Colberg**

The judgment is affirmed. Peterson, P.J. We concur: Haning, J., Jones, J.  
(Not for Publication.)

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Monday, October 6, 1997

DIVISION TWO

**A076357 The People v. Darryl Gonzales**

The judgment is affirmed. Haerle, J. We concur: Kline, P.J., Ruvolo, J.  
(Not for Publication.)

**A075301 Estate of Evangeline Stewart**

The judgment is reversed and the case remanded to the trial court for action not inconsistent with this opinion. Haerle, J. We concur: Lambden, J., Ruvolo, J.  
(Not for Publication.)

**A074455 The People v. David Mc Cray**

The judgment is affirmed. Kline, P.J. We concur: Haerle, J., Ruvolo, J.  
(Certified for Publication.)

**A077094 The People v. Favian C.**

The judgment is affirmed. Haerle, J. We concur: Kline, P.J., Lamden, J.  
(Not for Publication.)

Monday, October 6, 1997 (continued)

DIVISION THREE

**A078280 Aubrey Harris v. Bennie Rhodes**

The appeal is dismissed as untimely filed. Phelan, P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

**A075797 In re Augusta B., a Person Coming Under the Juvenile Court Law.**

The juvenile court's orders are affirmed. Parrilli, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

DIVISION FOUR

**A079881 The Recorder v. The Commission on Judicial Performance**

The above-entitled appeal is ordered transferred from Division Four to Division Two of this court. Division Four has recused itself in this matter. This order is made pursuant to Rule 20(b)(2) of the California Rules of Court. Strankman, A.P.J.



MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Tuesday, October 7, 1997

DIVISION ONE

**A075844 The People v. Gerald Franklin Goff**

The judgment and order of restitution are affirmed. Stein, Acting P.J. We concur: Dossee, J., Swager, J. (Not for Publication.)

**A075477 Jay Y. Hutton v. Stuart T. Sparling et al.**

As to the Canty defendants, the appeal is dismissed as untimely. The judgment dismissing the action against the Sparling defendants is affirmed. Stein, J. We concur: Strankman, P.J., Dossee, J. (Not for Publication.)

**A077516 The People v. Andrew Jackson Franks**

The judgment is affirmed. Stein, J. We concur: Strankman, P.J., Dossee, J. (Not for Publication.)

DIVISION THREE

**A073551 Sabrina Voto v. Walter Renner et al**

The judgment is reversed in part and remanded for consideration of the issues of exemption of the second note from the usury laws and estoppel to claim the second note was usurious, and for an award of prejudgment interest on unpaid principal from April 20, 1992, the date of the second note, through the date of final judgment herein. The trial court shall reconsider the amount of reasonable attorney fees to be awarded based on its determination on the estoppel and usury issues, as well as the award of prejudgment interest to Voto. In all other respects, the judgment is affirmed. Walker, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

Tuesday, October 7, 1997 (continued)

DIVISION FOUR

**A077778 The People v. Nathaniel Augusta Whaley, Sr.**

The judgment is affirmed. Hanlon, J. We concur: Pochè, Acting P.J., Reardon, J. (Not for Publication.)

DIVISION FIVE

**A079438 In re Kenneth S., a Person Coming Under the Juvenile Court Law.**

The petition is for extraordinary relief is denied in the merits. (See Cal. Const., art. VI, 14; *Kowis v. Howard* (1992) 3 Cal.4th 888.) Petitioner is barred in any subsequent appeal from making further challenges to the order terminating reunification services and setting a hearing under section 366.26, subd. (l). Since the section 366.26 hearing is set for October 10, 1997, this opinion is final as to this court forthwith. (See Cal. Rules of Court, rule 24(d).) The Court: Peterson, P.J., Haning, J., Jones, J. (Not for Publication.)

**A079607 Manhattan National Life Insurance Company v. The Superior Court of Alameda County., Rhonda Graf**

Let a Peremptory Writ of Mandate Issue commanding respondent superior court (the assigned judge hearing the challenge for cause) to vacate that portion of its order which concludes that all judges other than Judge Margulies are deemed to have consented to their disqualification by lack of individual response. The denial of the challenge to Judge Margulies is not at issue in this writ proceeding. To facilitate the relief requested, this opinion is final as to this Court forthwith. Petitioner shall recover its costs of this writ proceeding. The Court: Peterson, P.J., Haning, J., and Jones, J. (Not for Publication.)

**A075164 The People v. Starlene Evelyn Parenteau**

The judgment is reversed with directions to the trial court to set aside the order revoking probation. Haning, J. We concur: Peterson, P.J., Jones, J. (Not for Publication.)

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

DIVISION FOUR

Tuesday, October 7, 1997

Court convened at 9:30 a.m. in its courtroom at 303 Second Street, South Tower, Fourth Floor, San Francisco, California. Present: Poche, Acting P.J.; Reardon, J.; and Parrilli, J. of Division 3 sitting pro tem; Channing Hoo, Deputy Clerk and CHP Officer C. Reese, Bailiff.

A073492 Carolyn Martin  
v.  
PG & E et al.  
Cause called. Neil Eisenberg argued on behalf of appellant Martin. Richard J. Finn argued on behalf of respondents.  
Cause ordered submitted.

At this point, the court reconstituted itself to include Poche, Acting P.J., Reardon, J. and Hanlon, J.

A071076 Francis Bise et al.  
v.  
Rhone-Poulenc, Inc. et al.  
Cause called. Elizabeth Bader argued on behalf of appellants Bise et al. Sean P. Wajert and Richard Derevan argued on behalf of respondents. Cause ordered submitted.

A075001 Tony Abadie et al.  
v.  
Shell Oil Co. et al.  
Cause called. Valli Ravi argued on behalf of appellants Abadie et al. Sean P. Wajert, Richard Derevan, and Michael K. Johnson argued on behalf of respondents. Cause ordered submitted.

A076654      Century Indemnity Co., etc. et al.  
v.  
Bank of America, FSB, etc. et al.  
Cause called. Robert J. Romero argued on behalf of appellants  
Century et al. Barry S. Levin argued on behalf of respondents.  
Cause ordered submitted.

Court recessed at 11:28 a.m.

Court reconvened at 2:00 p.m. Present: Poche, Acting P.J., Reardon, J.  
and Hanlon, J.; Channing Hoo, Deputy Clerk; and CHP Officer E.  
Swanson, Bailiff.

A076338      Peter G. Stamison, etc. et al.  
v.  
Elizabeth Karnazes et al.  
Cause called. Gregory Rolen argued on behalf of appellants  
Stamison et al. Robert Lash argued on behalf of respondents. Cause  
ordered submitted.

A073577      Jerald A. Gatton et al.  
v.  
Owens-Corning et al.  
Cause called. William Armstrong argued on behalf of appellants  
Owens et al. Harry Wartnick argued on behalf of  
respondents. Cause ordered submitted.

A075769      Audrey Hung et al.  
v.  
Investors Insurance Group  
Cause called. Richard Simons argued on behalf of appellants Hung  
et al. Charles Eisner argued on behalf of respondent. Cause ordered  
submitted.

A075930      In re Marriage of Brown  
                 Tonio Brown  
                 v.  
                 Jayne Reano  
                 Cause called. Carl B. Shapiro argued on behalf of appellant Brown.  
                 Patrick Macias argued on behalf of respondent. Cause ordered  
                 submitted.

A073696      People  
                 v.  
                 Gary Michael Griffin  
                 Cause called. Scott Kauffman argued on behalf of appellant Griffin.  
                 Kenneth Young argued, through teleconference, on behalf of  
                 respondent. Cause ordered submitted.

The court adjourned at 4:05 p.m.

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Wednesday, October 8, 1997

DIVISION ONE

**A075073 Eva M. Bernard v. Waclaw Borken-Hagen**

The judgment is affirmed. Dossee, J. We concur: Stein, Acting P.J., Swager, J.  
(Not for Publication.)

**A077573 Amir Ajirniar v. Hossein Khodadad et al.**

The judgment is reversed and the trial court is instructed to set aside the default judgment and the clerk's default entered against appellants. Appellants shall recover their costs on appeal. Dossee, J. We concur: Stein, Acting P.J., Swager, J.  
(Not for Publication.)

**A075582 Environmental Protection Information Center, Inc. v. California Department of Forestry and Fire Protection et al., Pacific Lumber Company. Sierra Club v. California Department of Forestry and Fire Protection et al., Pacific Lumber Company.**

The judgment is affirmed. Stein, J. We concur: Strankman, P.J., Dossee, J.  
(Not for Publication.)

DIVISION TWO

**A075242 The People v. Bobby R. Castillo**

In sum, we find the warrant was supported by probable cause. The judgment is affirmed. Kline, P.J. We concur: Haerle, J., Lambden, J. (Certified for Publication.)

Wednesday, October 8, 1997 (continued)

**A073787 John Creighton, et al. v. Board of Regents of the University of California, et al.**

The judgment is affirmed. Haerle, Acting P.J. We concur: Lambden, J., Ruvolo, J. (Certified for Publication.)

**A078165 The People v. Richard Wallace Humphries**

The judgment is affirmed. Ruvolo, J. We concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

**A075891 The People v. Frankie Devon Gray**

The judgment is affirmed. Kline, J. We concur: Haerle, J., Ruvolo, J. (Not for Publication.)

DIVISION THREE

**A063172 Dorene L. Musilli, John Musilli, Sr. v. Alioto & Alioto et al.**

The order after judgment is affirmed. Corrigan, J. We concur: Phelan, P.J., Parrilli, J. (Not for Publication.)

DIVISION FIVE

**A076896 In re the Matter of Jesse G., a minor.**

The order of the juvenile court is affirmed. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

**A075826 The People v. Derek Charles Land**

The judgment is affirmed. Jones, J. We concur: Peterson, P.J., Haning, J. (Not for Publication.)

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Friday, October 10, 1997

DIVISION ONE

**A077139 The People v. Lamar Kamakea Parker**

The judgment is affirmed. Dossee, J. We concur: Strankman, P.J., Stein, J.  
(Not for Publication.)

**A077694 In re Michael F., a Person Coming Under the Juvenile Court Law.**

The jurisdictional findings and dispositional order are affirmed. Stein, Acting P.J.  
We concur: Dossee, J., Swager, J. (Not for Publication.)

**A075186 The People v. Frank John Spano**

The judgment is affirmed. The abstract of judgment shall be corrected to reflect the imposition of consecutive 25-year-to-life terms on counts 1 through 3, and 2 consecutive 5-year enhancements. Stein, J. We concur: Strankman, P.J., Swager, J.  
(Not for Publication.)

DIVISION TWO

**A080134 In re Robin Dasenbrock, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied. Kline, P.J.

**A080217 In re Christopher James, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied. Kline, P.J.



Friday, October 10, 1997 (continued)

**A080065 In re M. Kurbegovich, on Habeas Corpus**

By the Court: The petition for writ of habeas corpus is denied. Kline,

DIVISION THREE

**A073930 Julius Mesterhazy et al. v. John L. Redman et al.**

The judgment is affirmed. Corrigan, Act. P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

**A076653 David M. Rantz et al. v. Robert G. South Jr. et al**

The petition for writ of mandamus is denied. Phelan, P.J. We concur: Corrigan, J., Walker, J. (Not for Publication.)

**A075743 California Automobile Assigned Risk Plan v. National Surety Corporation**

The judgment, as well as the April 18, 1996, order granting summary adjudication on the complaint in favor of the Plan and the August 29, 1995 order sustaining the demurrer to the second cause of action on the cross-complaint, are reversed. The matter is remanded to the trial court for proceedings consistent with the views expressed in this opinion. Costs are awarded to National. Parrilli, J. We concur: Phelan, P.J., Walker, J. (Not for Publication.)

**A075630 The People v. Ricky D. Galvin**

The trial court is ordered to modify all sentencing documents to reflect that appellant is sentenced to a stayed term of six months (rather than one year) for the misdemeanor trespass (602, subd. (j)). In all other respects, the judgment is affirmed. Parrilli, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

Friday, October 10, 1997 (continued)

DIVISION FIVE

**A077510 The People v. James Proctor**

The order revoking Proctor's probation is affirmed. Jones, J. We concur:  
Peterson, P.J., Haning, J. (Not for Publication.)

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Tuesday, October 14, 1997

DIVISION TWO

**A074885 In re Ronald T., a Person Coming Under the Juvenile Court Law.**

The case is remanded to the Superior Court for the limited purpose of correcting the commitment order to reflect that the enhancement for the carjacking and robbery counts alleged in the August 24, 1995, petition is an arming enhancement pursuant to Penal Code section 12022, subdivision (a), instead of a use enhancement pursuant to Penal Code section 12022.5, subdivision (a). In all other respects the order is affirmed. Haerle, J. We concur: Kline, J., Lambden, J. (Not for Publication.)

**A073304 The People v. Jose Timoteo Guevara**

The judgment is modified to strike the section 667.8, subdivision (a), enhancement, and, as so modified, is affirmed. Kline, P.J. We concur: Haerle, J. Lambden, J. (Not for Publication.)

**A075000 The People v. Brian Benjamin Sullins**

The judgment is affirmed. Kline, P.J. We concur: Haerle, J., Lambden, J. (Not for Publication.)

**A073403 Tara Bryan v. Michael Meleyco, et al.**

We reverse the order sustaining the demurrer to Bryan's first amended complaint and vacate the judgment against Bryan in favor of respondents. Appellant to recover costs on appeal. Haerle, Acting P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Tuesday, October 14, 1997 (Continue)

DIVISION FOUR

**A075778 Albertson's Inc. v. The Home Insurance Company**

The judgment is affirmed. Reardon, J. We concur: Pochè, Acting P.J., Hanlon, J. (Not for Publication.)

**A073492 Carolyn Martin v. Pacific Gas & Electric Company et al.**

The judgment is affirmed. Reardon, J. We concur: Pochè, Acting P.J. Parrilli, J. Associate Justice of the Court of Appeal, First District, Division Three, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution. (Not for Publication.)

**A076654 Century Indemnity Company et al. v. Bank of America, FSB et al.**

The order is affirmed. Pochè, Acting P.J. We concur: Reardon, J., Hanlon, J. (Certified for Publication.)

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

TUESDAY, OCTOBER 14, 1997

Court convened at 9:00 a.m. in its courtroom at Marathon Plaza, South Tower - Fourth Floor, 303 Second Street, San Francisco.

Present: Corrigan, A.P.J., Parrilli, J, Walker, J., and J. Casados, Deputy Clerk.

Justice Corrigan announced that Justice Phelan would not be present at oral argument and with counsels approval he would listen to the audio tape of oral argument. Counsel in each case did not object to Justice Phelans absent at oral argument, and counsel did not object to his listening to the audio tape of each oral argument matter heard this morning.

A075715 Hong Truong,

v.

Grand Rent A Car, etc.;

Eugene Boyer, III,

v.

Douglas Kanner.

Cause called and argued by James F. Mahon, counsel for respondent Kanner. No appearance by counsel for appellant or the other respondents. Cause ordered submitted.

Justice Walker left the bench.

A077286 Jack Runnion,

v.

Workers' Compensation Appeals Board et al.

Cause called and argued by Jack Runnion in pro per. and Robert A. Ruby, counsel for respondent. Cause ordered submitted.

- A074906    Mayne & Company,  
              v.  
              M. Helen Fisher, etc.  
              Cause called and argued by Barry Lee, counsel for appellant, and  
              Richard Lund, counsel for respondent. Cause ordered submitted.
- A070937    Thomas F. McCloskey et al.,  
              v.  
              Michigan Millers Mutual Insurance et al.  
              Cause called and argued by Jeffrey T. Wilbur, counsel for appellants,  
              and Jeffrey Leist, counsel for respondents. Cause ordered submitted.
- A072818    Raymond Interior Systems North,  
              v.  
              HBE Corporation.  
              Cause called and argued by Michael Johnson and Ralph Zappala  
              counsel for appellant, and Peter Lamberto, counsel for respondent.  
              Cause ordered submitted.

Court recessed until 1:30 p.m.

STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

TUESDAY, OCTOBER 14, 1997

Court convened at 1:30 p.m. in its courtroom at Marathon Plaza, South Tower - Fourth Floor, 303 Second Street, San Francisco.

Present: Corrigan, A.P.J., Parrilli, J, Walker, J., and J. Casados, Deputy Clerk.

- A075656    The People,  
              v.  
              Frederick D. Bennett.  
Cause called and argued by Peggy Ruffra, Deputy Attorney General, counsel for appellant, and by teleconference Alison Hardy, counsel for respondent. Cause ordered submitted.
- A073612    The People,  
              v.  
              Frank Greg Bamba.  
Cause called and argued by Peter Goldscheider, counsel for appellant, and by teleconference Christina Kuo, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A073965    In re the Marriage of Philip and Georgette Welch.  
Cause called and argued by Michael Kelly, counsel for appellant, and by Kathryn B. Shepherd, counsel for respondent. Cause ordered submitted.
- A075861    Ana L. Escobar,  
              v.  
              Manuel S. Escobar.  
Cause called. By teleconference Joseph Biasella, counsel for appellant, and Robert L. Taylor appearing for respondent agreed to submit the matter on the briefs. Cause ordered submitted.

A074004    Jeanne Rogers,

v.

Doe C.M..

Cause called and argued by Brian Thiessen, counsel for appellant, and  
by Bernard Wolf, counsel for respondent. Cause ordered submitted.

Court adjourned.



MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Wednesday, October 15, 1997

DIVISION ONE

**A078454 The People v. Paul Leander Chambers**

The judgment is affirmed. Strankman, P.J. We concur: Stein, J., Swager, J.  
(Not for Publication.)

**A076169 The People v. Antonio Shawn Roberts**

The judgment is reversed. Strankman, P.J. We concur: Stein, J., Swager, J.  
(Not for Publication.)

**A075214 Mark West Creek Preservation Association, et al. v. County of Sonoma, Shiloh Associates, et al.**

We reverse the judgment in part and remand the case to the superior court with directions to issue a writ of mandamus requiring the Sonoma County Board of Supervisors to vacate the portions of resolution 94-1823 that authorize a use permit for a wastewater treatment plant on the project site. In other respects, the order of the superior court denying the petition for writ of mandamus is affirmed. Each party shall bear its own costs. Swager, J. We concur: Strankman, P.J., Dossee, J. (Not for Publications.)

Wednesday, October 15, 1997 (continued)

DIVISION TWO

**A075166 The People v. Carol Brush**

The judgment is affirmed. Haerle, Acting P.J. We concur: Lambden, J., Ruvulo, J. (Not for Publication.)

**A077110 The People v. Kimber Lea Shaw**

The judgment is affirmed. Lambden, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A079774 Vicki M. v. Superior Court of the County of Lake, Lake County Department of Social Services.**

The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, 14; *Kowis v. Howard* (1992) 3 Cal. 4th 888; 366.26, subd. (1) [precluding further challenge to these orders by petitioner in any subsequent appeal].) The request for stay of the section 366.26 hearing, which is set for December 1, 1997, is denied and our decision is immediately final as to this court. (Cal. Rules of Court, rule 24(d).) Lambden, J. We concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

DIVISION THREE

**A073922 Rebekah Whetzel v. A.F.M. Services, Inc. et al.**

For all the foregoing reasons, the judgment of the trial court is reversed and the cause remanded for further proceedings consistent with this opinion. Costs to appellant. Phelan, P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

Wednesday, October 15, 1997 (continued)

DIVISION FOUR

**A075930 In re the Marriage of Tonio Brown and Jayne Reano.**

The judgment is affirmed. The parties are to bear their own costs on this appeal. Hanlon, J. We concur: Pochè, Acting P.J., Reardon, J. (Not for Publication.)

DIVISION FIVE

**A075639 The People v. Wanda Virginia Muela**

The judgment is affirmed. Haning, J. We concur: Peterson, P.J., Jones, J. (Not for Publication.)

**A76632 Carlos Villatoro v. Tommie Lee Jackson**

We reverse the order denying Villatoro's section 473 motion. Upon remand, the superior court may consider the entry of an order consistent with section 473, subdivision (c). Costs on appeal to appellants. Jones, J. We concur: Peterson, P.J., Haning, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT

DIVISION TWO

October 15, 1997

The court convened in its courtroom at 9:30 a.m. at Marathon Plaza, South Tower, 303 Second Street, San Francisco, CA. Present: Kline, P.J., Haerle, J., Ruvolo, J. and I. Cespedes, Deputy Clerk.

- A075147     B-X Ranch, Inc.,  
A077391     v.  
              Ray Bartolomei et al.  
              Cause called and argued by Joseph Tinney, counsel for appellant,  
              and Thomas Johnson, counsel for respondent. Cause ordered  
              submitted.
- A074529     Virginia M. Marques,  
A073882     v.  
              Bank of America et al.  
              Cause called and argued by Kathleen Lucas, counsel for appellant,  
              and Patricia Gillette, counsel for respondent. Cause ordered  
              submitted.
- A077416     Garry Aquilino et al.,  
              v.  
              Marin County Employees' Retirement Association et al.  
              Cause called and argued by Gary Ragghianti, counsel for appellant,  
              and Patrick Faulkner, counsel for respondent. Submission deferred  
              for 20 days pending filing of letter briefs from both parties.
- A071320     The People,  
              v.  
              Jeffrey Warner.  
              Cause called and argued via teleconference by Norton Tooby,  
              counsel for appellant, and Christina Kuo, Deputy Attorney  
              General, counsel for respondent. Cause ordered submitted.

Court adjourned.

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Thursday, October 16, 1997

DIVISION ONE

**A075382 George Kendall v. Fairfield Daily Republic**

The judgment is affirmed. Costs are awarded to respondents. Swager, J.  
We concur: Strankman, P.J., Stein, J. (Not for Publication.)

**A078219 The People v. Eugene Ruiz**

The judgment is affirmed. Swager, J. We concur: Stein, Acting P.J., Dossee, J.  
(Not for Publication.)

**A077617 The People v. Howard Marcus**

The judgment is affirmed. Swager, J. We concur: Stein, Acting P.J., Dossee, J.  
(Not for Publication.)

DIVISION TWO

**A080261 In re Richard Cross, on Habeas Corpus.**

By the Court: The Petition for writ of habeas corpus is denied. Kline, P.J.

**A080216 In re Ahmad Hasan, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied. Petitioner should first seek relief, if any, in the trial court. Kline, J.

Thursday, October 16, 1997 (continued)

DIVISION TWO

**A080242 In re Gary Eugene Kukes, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied. Kline, J.

**A080043 In re Richard Cross, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied. Kline, J.

**A074723 Karl Schoen et al. v. California Department of Forestry & Fire Protection, Louisiana-Pacific Corporation**

We find CDF abused its discretion when it classified the modifications to THP 100 and THP 145 as minor. CDF does not have the discretion to streamline procedures in a manner which denies the public any review of an amendment when the supplemental information on cumulative impacts is responding to significant additional requirements. Accordingly, we reverse the judgment and Schoen is awarded costs. Lambden, J. We concur: Kline, P.J., Ruvolo, J.  
(Certified for Publication.)

**A075904 In re the Marriage of Kaiyu Chu and Yong Mei Li.**

The judgment is affirmed. Lambden, J. We concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

**A075954 The People v. Marcus Smallwood**

Our review having revealed no other error and no need for further briefing, we modify the judgment by amending the concurrent terms on each of counts III and IV to state three rather than four years. The judgment is affirmed as so modified. The superior court is ordered to direct that an amended abstract of judgment be prepared and forwarded to the proper authorities. Lambden, J. We concur: Haerle, Acting P.J. Ruvolo, J. (Not for Publication.)

Thursday, October 16, 1997 (continued)

**A080039 In re Eric H., a Person Coming Under the Juvenile Court Law.**

Let a peremptory writ of mandate issue compelling the Contra Costa County Superior Court to vacate its order rejecting transfer from the Los Angeles County Superior Court. (*Alexander v. Superior Court* (1993) 5 Cal.4th 1218, 1222-1223; *Ng v. Superior Court* (1992) 4 Cal.4th 29,35.) Kline, J. We concur: Haerle, J., Ruvolo, J. (Not for Publication.)

**A078432 The People v. Jaun Torres Manzo**

The judgment is affirmed. Kline, P.J. We concur: Lambden, J., Ruvolo, J. (Not for Publication.)

DIVISION THREE

**A077743 In re Hassan S., a Person Coming Under the Juvenile Court Law.**

The jurisdictional and dispositional orders of the juvenile court are affirmed. Phelan, J. We concur: Corrigan, J., Walker, J. (Not for Publication.)

**A077730 The People v. Cheri Lorraine Sutherland**

Accordingly, there are no issues which require briefing by appointed counsel and the judgment is affirmed. Phelan, P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

**A074004 Jeanne Rogers v. Doe C.M.**

The judgment is affirmed in all respects. Respondent to recover costs on appeal. Walker, J. We concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION TWO

Thursday, October 16, 1997

Court met at 9:30 a.m. in its courtroom at 303 - 2nd Street,  
Fourth Floor, San Francisco. Present: Kline, P. J., Haerle, J., Lambden, J.,  
and S. Graham, Deputy Clerk.

- A075816    People  
              v.  
              Charles VanLoock  
Cause called and argued by Mark D. Greenberg, counsel for appellant and  
Violet Lee, Deputy Attorney General, counsel for respondent. Cause  
ordered submitted.
- A075851    Alicia Dahlin  
              v.  
              El Torito Restaurants, Inc., et al.  
Cause called and argued by Stephan Williams, counsel for appellant and  
Paul Phillips, counsel for respondent. Cause ordered submitted.
- A072759    Mark Winthers, et al.  
              v.  
              California Dept. of Forestry  
Cause called and argued by James Pierce, counsel for appellants and  
Edna Walz, Deputy Attorney General, counsel for respondent. Cause  
ordered submitted.
- A070295    Brian F. Sears  
              v.  
              Martin B. Baccaglio  
Cause called and argued by Christopher Ream, counsel for appellant and  
Frank R. Ubhaus, counsel for respondent. Cause ordered submitted.



A076593     Arthur Mitchell  
v.  
Asbestos Corporation, Ltd., et al.  
Cause called and argued by James Parker, counsel for appellant and James Oberman, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

Court reconvened at 1:30 p.m. Present: Kline, P. J., Lambden, J., Ruvolo, J. and S. Graham, Deputy Clerk.

A075649     Alfred Watts  
v.  
Oakland Civil Service Board  
Cause called and argued by Ellen Mendelson, counsel for appellant and Wendy Rouder and Charles Triebel, counsel for respondents. Cause ordered submitted.

A075859     Gilbert Kucera, M.D., et al.  
v.  
Tiberio Lizza, et al.  
Cause called and argued by David Edward May, counsel for appellants, Peter B. Brekhus, counsel for respondent and John Sharp, counsel for amicus curiae, Town of Tiburon, et al. Cause ordered submitted.

At this point in the proceedings, Presiding Justice Kline left the bench and Justice Haerle joined the bench.

A076647     Alexander Spence, et al.  
v.  
Nicholas Clainos  
Cause called and argued by Glendon Miskel, counsel for appellant and Richard Idell, counsel for respondent. Cause ordered submitted.

A075345     Gerald Grahn, et al.  
v.  
Tosco Corporation  
Cause called and argued by Tony Tanke, counsel for appellant and James Oberman, counsel for respondent. Cause ordered submitted.

A076480 Linda Mallette

v.

Susan Schumacher, et al.

Cause called and argued by Linda Mallette, appellant in Propria Persona and Sharon Chandler, counsel for respondent. Cause ordered submitted.

Court adjourned.

## MINUTES

### CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Thursday, October 16, 1997

Court met at 9:30 a.m. in its courtroom at 303 - 2nd Street,  
Fourth Floor, San Francisco. Present: Kline, P. J., Haerle, J., Lambden, J.,  
and S. Graham, Deputy Clerk.

- A075816    People  
              v.  
              Charles VanLoock  
Cause called and argued by Mark D. Greenberg, counsel for appellant and  
Violet Lee, Deputy Attorney General, counsel for respondent. Cause  
ordered submitted.
- A075851    Alicia Dahlin  
              v.  
              El Torito Restaurants, Inc., et al.  
Cause called and argued by Stephan Williams, counsel for appellant and  
Paul Phillips, counsel for respondent. Cause ordered submitted.
- A072759    Mark Winthers, et al.  
              v.  
              California Dept. of Forestry  
Cause called and argued by James Pierce, counsel for appellants and  
Edna Walz, Deputy Attorney General, counsel for respondent. Cause  
ordered submitted.
- A070295    Brian F. Sears  
              v.  
              Martin B. Baccaglio  
Cause called and argued by Christopher Ream, counsel for appellant and  
Frank R. Ubhaus, counsel for respondent. Cause ordered submitted.

A076593     Arthur Mitchell  
v.  
Asbestos Corporation, Ltd., et al.  
Cause called and argued by James Parker, counsel for appellant and  
James Oberman, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

Court reconvened at 1:30 p.m. Present: Kline, P. J., Lambden, J.,  
Ruvolo, J. and S. Graham, Deputy Clerk.

A075649     Alfred Watts  
v.  
Oakland Civil Service Board  
Cause called and argued by Ellen Mendelson, counsel for appellant  
and Wendy Rouder and Charles Triebel, counsel for respondents.  
Cause ordered submitted.

A075859     Gilbert Kucera, M.D., et al.  
v.  
Tiberio Lizza, et al.  
Cause called and argued by David Edward May, counsel for appellants,  
Peter B. Brekhus, counsel for respondent and John Sharp, counsel for  
amicus curiae, Town of Tiburon, et al. Cause ordered submitted.

At this point in the proceedings, Presiding Justice Kline left the bench  
and Justice Haerle joined the bench.

A076647     Alexander Spence, et al.  
v.  
Nicholas Clainos  
Cause called and argued by Glendon Miskel, counsel for appellant and  
Richard Idell, counsel for respondent. Cause ordered submitted.

A075345     Gerald Grahn, et al.  
v.  
Tosco Corporation  
Cause called and argued by Tony Tanke, counsel for appellant and  
James Oberman, counsel for respondent. Cause ordered submitted.

A076480 Linda Mallette

v.

Susan Schumacher, et al.

Cause called and argued by Linda Mallette, appellant in Propria Persona and Sharon Chandler, counsel for respondent. Cause ordered submitted.

Court adjourned.

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Friday, October 17, 1997

DIVISION TWO

**A077522 The People v. Victor Manuel Martinez**

The judgment is affirmed. Lambden, J. We concur: Kline, J., Haerle, J.  
(Not for Publication.)

**A072105 Carol Goodrich v. First Baptist Church of Alameda et al.**

The judgment is reversed as to FBCA. As to ABCW, the judgment is affirmed.  
Costs are awarded to appellant as to respondent FBCA only; ABCW to bear its own costs  
on appeal. Ruvalo, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

DIVISION THREE

**A075861 Ana L. Escobar v. Manuel S. Escobar**

Affirmed. Respondent to recover costs on appeal. Walker, J. We concur:  
Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

**A076757 The People v. Daniel Herrera**

The judgment is affirmed. Parrilli, J. We concur: Corrigan, Actg. P.J., Walker, J.  
(Not for Publication.)

Friday, October 17, 1997(continued)

DIVISION FOUR

**IN THE MATTER OF THE ASSIGNMENT OF THE HONORABLE ALEX  
SALDAMANDO TO SIT AS A JUSTICE OF THIS COURT.**

By the Court: It is ordered that the assignment of the Honorable Alex Saldamondo, Judge of the Superior Court, San Francisco County, to sit as a Justice in Division Four be spread upon the minutes in full. Hanlon, Acting P.J.

**A075769 Audrey Hung, a Minor, etc.v. Kenneth SO, DC, et al.,  
Investors Insurance Group**

For all these reasons we conclude it was an abuse of the trial court's discretion to grant IIG's motions to intervene and vacate the defaults and default judgments. Accordingly, we reverse the judgment. Reardon, J. We concur: Pochè, Acting P.J., Hanlon, J. (Not for Publication.)

DIVISION FIVE

**A079379 In re Raphael B., a Person Coming Under the Juvenile Court Law.**

By the Court: The appellant having filed an abandonment of appeal in this court, the appeal on file herein is ordered dismissed and the remittitur is to issued forthwith. Jones, Acting P.J.

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Monday, October 20, 1997

DIVISION TWO

**A068031 Antonio M. Garcia v. Vivek Hejmadi**

The superior court lacked jurisdiction to reconsider the grant of summary judgment, enter a new order and proceed with trial. The ensuing judgment after trial is accordingly reversed, and the cause is remanded for the court to consider the issue of attorney fees under the settlement agreement. Lambden, J. We concur: Kline, P.J., Haerle, J. (Certified for Publication.)

DIVISION THREE

**A075894 Burle Southard et al. v. Solano County et al.**

The petition for rehearing is denied. Phelan, P.J.

**A075894 Burle Southard et al. v. Solano County et al.**

By the Court: Order Modifying Opinion. The opinion filed September 19, 1997, is hereby modified as follows. The last sentence on page 8, continuing to the top of page 9 is modified to delete the words "and acted on the basis of substantial evidence." The last sentence on page 8 now reads, "Our function is to ensure the County has complied with the requirements of state law." There is no change in the judgment. Corrigan, Acting P.J. (Not for Publication.)



Monday, October 20, 1997 (continued)

DIVISION FOUR

**A077503 The People v. Josè Pasion Sanchez**

The judgment is affirmed. Pochè, Acting P.J. We concur: Reardon, J., Hanlon, J.  
(Not for Publication.)

**A078004 The People v. Marc Anderson Adams**

The judgment is affirmed. Pochè, Acting P.J. We concur: Reardon, J., Hanlon, J.  
(Not for Publication.)

**A077112 The People v. William Joseph Cahill**

The judgment of conviction is affirmed. Pochè, Acting P.J. We concur: Reardon, J., Hanlon, J. (Not for Publication.)

**A073577 Karen Gatton v. Raybestos-Manhattan, Inc. et al.**

In all other respects the judgment is affirmed. Pochè, Acting P.J. We concur: Reardon, J., Hanlon, J. (Not for Publication.)

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Tuesday, October 21, 1997

DIVISION ONE

**A072987 The People v. Peter J. Ortiz**

Order Modifying Opinion and Denying Rehearing, Change in Judgment.

By the Court: It is ordered that the unpublished opinion filed on September 22, 1997, be modified as follows: On page 19, the last paragraph of the opinion is deleted and the following paragraph is inserted in its place: The second degree murder conviction of Peter Ortiz is reversed. The cause is remanded to the superior court with directions to enter a judgment of conviction of voluntary manslaughter and to resentence Ortiz, if within 60 days the prosecutor elects not to retry him for second degree murder. In all other respects, the judgments are affirmed. This modification effects a change in the judgment as to appellant Ortiz. In all other respects the opinion remains the same. The petition for rehearing is denied. Strankman, P.J.

DIVISION THREE

**A076637 The People v. Edgar R. Medina**

the judgment is affirmed. Parrilli, J. We concur: Phelan, P.J., Corrigan, J.  
(Not for Publication.)

**A077583 In re Archie R., a Person Coming Under the Juvenile Court Law.**

No error appearing, the juvenile court's order is affirmed. Parrilli, J. We concur: Phelan, P.J., Walker, J. (Not for Publication.)

Tuesday, October 21, 1997(continued)

DIVISION FOUR

**A073696 The People v. Gary Michael Griffin**

The judgment is modified in the following particulars: (1) by striking one section 667(a) enhancements; and (2) by substituting the number “10” for the number “15” under the column for total enhancements; and (3) by deleting the number “90.” As modified, the judgment is affirmed. The Clerk of the San Francisco Superior Court is directed to prepare an amended abstract of judgment reflecting these modifications and to forward a certified copy of the amended abstract to the Department of Corrections.

Pochè, Acting P.J. We concur: Reardon, J., Hanlon, J. (Not for Publication.)

DIVISION FIVE

**A075061 David Glenn et al. v. Mannie Joel et al.**

The order awarding sanctions is affirmed. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

**A075924 Jonathon C.S. Cox et al. v. Vickroy Stone et al.**

The order is affirmed. Costs to respondents. Haning, J. We concur: Peterson, P.J., Jones, J. (Not for Publication.)

## MINUTES

### CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION FOUR

Tuesday, October 21, 1997

Court met at 9:30 a.m. in its courtroom at 303 - 2nd Street, Fourth Floor, San Francisco. Present: Poche, Acting P. J., Reardon, J. and Hanlon, J.; Channing Hoo, Deputy Clerk; Helen Hiramoto, Courtroom Security Officer.

- A076221     Mediacopy  
              v.  
              Carolyn Sepulona et al.  
Cause called. Argued by James G. Beck and William Clough on behalf of appellant Mediacopy and Donald F. Farbstein on behalf of respondents. Cause submitted.
- A073739     Impossible Excavating & Engineering, Inc.  
              v.  
              Leonard Lothlen et al.  
Cause called. Argued by in pro per appellant Lothlen and Richard M. McNeely on behalf of respondent. Cause submitted.
- A074828     Harry Ewing et al.  
              v.  
              Michael Trautman et al.  
Cause called. Argued by Todd M. Schneider on behalf of appellants Ewing et al. and Todd A. Roberts on behalf of respondents. Cause submitted.
- A076473     John Nady  
              v.  
              Fireman's Fund Insurance Co.  
Cause called. Argued by Frederic Schrag on behalf of appellant Nady and Lynn Samuels on behalf of respondent. Cause submitted.

The court recessed at 11:00 a.m.

The court reconvened at 2:00 p.m. Present: Reardon, Acting P.J., Hanlon, J. and Judge Alex Saldamando (sitting on assignment); Channing Hoo, Deputy Clerk; Helen Hiramoto, Courtroom Security Officer.

A076355     Wayne Martin  
                 v.  
                 City Council of the City of St. Helena et al.  
                 Cause called. Argued by Linda A. Tripoli on behalf of appellants  
                 City Council et al. and William L. Williams, Jr. on behalf of  
                 respondent. Cause submitted.

At this point, the court reconstituted itself to include Poche, Acting P.J., Reardon, J. and Hanlon, J.

A074356     Larry Abrens et al.  
                 v.  
                 Allstate Insurance Co.  
                 Cause called. Argued by Harry Wartnick on behalf of appellants  
                 Abrens et al. and Patrick J. Grannan and H. Sinclair Kerr, Jr. on  
                 behalf of respondent. Cause submitted.

The court adjourned at 2:37 p.m.

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Wednesday, October 22, 1997

DIVISION ONE

**A077199 The People v. Edward Lee Davis**

The judgment is affirmed. Strankman, P.J. We concur: Dossee, J., Swager, J.  
(Not for Publication.)

DIVISION TWO

**A079886 City and County of San Francisco, et al. v. The Superior Court of  
San Francisco County, Nicolette Rivera, et al., R.P.I**

By the Court: The petition for writ of mandate is denied. Kline, P.J.

**A080358 In re Beatrice Smith-Dyer on Habeas Corpus.**

By the Court: The Petition for writ of habeas corpus is denied. Kline, P.J.

**A080298 In re Gerardo Vargas, on Habeas Corpus.**

By the Court: The Petition for writ of habeas corpus is denied. Kline, P.J.

**A080351 Stanley J. Nelson v. The Municipal Court of San Francisco County,  
The People of the State of California, R.P.I.**

By the Court: The petition for writ of prohibition/stay is denied. Kline, P.J.

Wednesday, October 22, 1997(continued)

**A080348 Kathleen Willians v. The Municipal Court of San Francisco County, The People of the State of California. R.P.I.**

By the Court: The petition for writ of prohibition/mandate /stay is denied.  
Kline, P.J.

**A080350 Jimmy Williams v. The Municipal Court of San Francisco County, The People of the State of California. R.P.I.**

By the Court: The petition for writ of prohibition/mandate /stay is denied.  
Kline, P.J.

**A075635 The People v. C.L.Robinson**

**A076874 In re C.L. Robison On Habeas Corpus.**

We affirm the judgment and deny appellant's petition for habeas corpus.  
Haerle, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

### DIVISION THREE

**A075810 Thomas and Laura Havstad v. Fidelity National Title Insurance Company**

By the Court: It is ordered that the opinion filed September 19, 1997, is modified as follows: (See Order.) There is no change in the judgment. The written opinion that was filed on September 19, 1997, was not certified for publication in the Official Reports. For good cause it now appears that the opinion should be published in the Official Reports and it is so ordered. Phelan, P.J. (Certified for Publication.)

**A076079 The People v. Roberto Juarez Zurita**

The judgment is affirmed. Corrigan, J. We concur: Phelan, P.J. , Parrilli, J.  
(Not for Publication.)

**A076079 The People v. Roberto Juarez Zurita**

By the Court: Due to clerical error and inadvertence, the opinion in the above-entitled matter was released from the Office of the Clerk of the Court with the file stamped date of October 22, 1997. The order is hereby modified nunc pro tunc to reflect the file date of October 20, 1997. Phelan, P.J.

Wednesday, October 22, 1997(continued)

**A075810 Thomas and Laura Havstad v. Fidelity National Title Insurance Company.**

By the Court: Due to clerical error and inadvertence, the order modifying opinion and certifying publication (no change in judgment) in the above-entitled matter was released from the Office of the Clerk of the Court with the file stamped date of October 22, 1997. The order is hereby modified nunc pro tunc to reflect the file date of October 20, 1997. Phelan, P.J.

**A075894 Burle Southard et al. v. Solano County et al.**

By the Court: The opinion filed September 19, 1997, is hereby modified as follows. The last sentence on page 8, continuing to the top of page 9 is modified to delete the words "and acted on the basis of substantial evidence." The last sentence on page 8 now reads, "Our function is to ensure the County has complied with the requirements of state law." There is no change in the judgment. Corrigan, Acting P.J.  
(Not for Publication.)

**A075894 Burle Southard et al. v. Solano County et al.**

By the Court: Due to clerical error and inadvertence, the order denying the petition for rehearing in the above-entitled matter was released from the Office of the Clerk of the Court with the file stamped date of October 22, 1997. The order is hereby modified nunc pro tunc to reflect the file date of October 20, 1997. Phelan, P.J.

**A075894 Burle Southard et al. v. Solano County et al.**

By the Court: The Petition for rehearing is denied. Phelan, P.J.

DIVISION FIVE

**A075680 Suzanne Ramos v. Bart McGlothin**

The order granting a new trial is affirmed. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)



MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Thursday, October 23, 1997

DIVISION ONE

**A077161 The People v. Brook Eugene Neslon**

The judgment is affirmed. Swager, J. We concur: Strankman, P.J., Stein, J.  
(Not for Publication.)

**A077494 Christel Osburn v. Union Bank of California, as trustee, Intervenor  
and respondent**

By the Court: The purported appeal from the order awarding attorney fees and costs to respondent on its motion to expunge a lis pendens is dismissed. The order is not appealable. (Code Civil Procedure, Section 405.39.) Strankman, P.J.

**A074751 The People v. Charles Delano Read**

The judgment is reversed as to count four. In all other respects, the judgment is affirmed. Stein, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

**A078243 The People v. William Craig Menefee**

We have reviewed the entire record of the proceedings below, finding neither error nor arguable issues. The judgment is affirmed. Stein, J. We Concur: Strankam, P.J. Dosse, J. (Not for Publication.)

Thursday, October 23, 1997

DIVISION TWO

**A078127 The People v. Brad Earl Crawford**

The judgment is reversed. Haerle, J. We concur: Kline, P.J., Ruvolo, J.  
(Certified for Partial Publication.)

DIVISION FOUR

**A076355 Wayne Martin v. City Council of the City of St. Helena, City of St. Helena, R.P.I.**

The judgment is affirmed. Reardon, Acting P.J. We concur: Hanlon, J., Saldamondo, J. (Not for Publication.)

DIVISION FIVE

**A076587 The People v. Kenneth Barnes**

The trial court is ordered to prepare and to forward to the Department of Corrections an amended abstract of judgment awarding appellant 285 in actual presentence credits plus 142 conduct credits for a total of 427 presentence credits. In all other respects the judgment is affirmed. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

**A078897 The People v. Jose Gutierrez**

The order revoking appellant's probation and the judgment of conviction and sentence are affirmed. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Friday, October 24, 1997

DIVISION TWO

**A074718 Carl Clinton Snyder v. United States Fidelity & Guaranty Company et al.**

The judgment is reversed. Costs on appeal are awarded to appellant. Haerle, J. We concur: Kline, P.J., Ruvolo, J. (Certified for Publication.)

**A072012 Ronald Anderson et al. v. Continental Insurance Company**

The judgment is affirmed. Ruvolo, J. We concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

**A072255 Contra Costa Water District v. Vaquero Farms, Inc.**

The judgment is affirmed. Ruvolo, J. We concur: Haerle, Acting P.J., Lambden, J. (Certified for Publication.)

DIVISION FIVE

**A076008 Lyon Metal Products, Inc. v. State Board of Equalization**

The judgment of the trial court is reversed, and the matter is remanded with instructions to enter judgment in favor of the Board. Peterson, P.J. We concur: Haning, J., Jones, J. (Certified for Publication.)

**A076082 The People v. Alfred Randell Everett**

The judgment is affirmed. Haning, J. We concur: Peterson, P.J., Jones, J. (Not for Publication.)

MINUTES

STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

COURT OF APPEAL

Monday, October 27, 1997

DIVISION ONE

**A075913 Charlotte A. Hamann v. Lawrence E. Moll et al.**

By the Court: The petition for rehearing is denied. Strankman, P.J.

**A074950 Robert Press et al. v. Owens Corning,**

**A074957 Lumina Vigil v. Owens Corning**

In short, the trial court erred in relying on the jury's finding that Robert Press suffered appreciable harm before the defective date of Proposition 51 since the jury was improperly instructed on this point. Accordingly, the post-judgment order modifying the judgment filed July 23, 1996, is reversed to the extent that it failed to properly address the allocation of non-economic damages in favor of Robert Press pursuant to Proposition 51. (Civ. Code, 1431 et seq.) The post-judgment order modifying the judgment filed July 23, 1996, is reversed to the extent provided herein and the case remanded for further proceedings pursuant to this opinion. In all other respects, the judgment is affirmed. Each party shall bear their own costs on appeal. Swager, J. We concur: Strankman, P.J. Dossee, J. (Not for Publication.)

DIVISION TWO

**A073570 The People v. Robert Goodlow**

We affirm the judgment. Lambden, J. We concur: Haerle, Acting P.J. Ruvolo, J. (Not for Publication.)

Monday, October 27, 1997(continued)

**A073232 The People v. Davis Rajesh Harbans**

**A076731 In re Davis Rajesh Harbans on Habeas Corpus.**

The petition for writ of habeas corpus is denied.

The judgment of the trial court is affirmed. Lambden, J. We concur: Kline, P.J. Ruvolo, J. (Not for Publication.)

DIVISION THREE

**A076687 Zoila Perez v. California Tennis Club**

The order granting summary adjudication on Perez's first, second, and third causes of action is reversed, and the matter is remanded for trial on those causes of action only. In all other respects, the judgment is affirmed. Costs to Perez. Parrilli, J. We concur: Phelan, P.J., Corrigan, J.(Not for Publication.)

**A073965 In re the Marriage of Philip H. and Georgette Paris Welch**

Sanctions against Kelly could not have been imposed under Family Code section 271. As such, they could only have been imposed pursuant to section 128.5. The trial court's order imposing sanctions against Kelly lacked the specificity required by Code of Civil Procedure section 128.5, subdivision (c). We therefore reverse and remand with directions that the superior court either enter a new order supported by a detailed recitation of the conduct or circumstances justifying the order, in accordance with section 128.5, subdivision (c) or, in the alternative, vacate the imposition of sanctions. We affirm in all other respects. Each side to bear its own costs on appeal. Walker, J. We concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

DIVISION FOUR

**A076074 The People v. Wade Richard Kelly**

The judgment is affirmed. However, in the interests of judicial economy and to preclude the necessity of filing a petition for habeas corpus we remand for further proceedings. The record on appeal does not indicate that the letter brief dated August 30,1996, to the court by counsel for appellant was ever officially "filed" with this case or actually referred to and reviewed by the sentencing judge. That letter requested the court

Monday, October 27, 1997(continued)

to exercise its discretion under section 1170, subdivision (d), to recall the appellant from state prison and resentence him. The court retains this power for 120 days, but that time was shortened in this case when appellant filed its timely appeal on October 10, 1996, divesting the trial court of jurisdiction to recall the sentence under section 1170, subdivision (d). Because it is not clear from this record that the trial court had the opportunity to consider and act on counsel's request, the matter is remanded to provide the court with that opportunity. The court has 64 days remaining to exercise its discretion under section 1170, subdivision (d), and if it does not act within this period, the judgment is affirmed. If it exercised its discretion to recall the sentence within the time prescribed, appellant shall be resentenced. Anderson, J.\* We concur: Reardon, Acting P.J., Hanlon, J. (Not for Publication.)

\*Retired Presiding Justice of the Court of Appeal, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

**A076482 Carr, McClellan, Ingersoll, Thompson & Horn et al. v. Robert Cheng**

The judgment is affirmed. Pochè, Acting P.J. We concur: Reardon, J., Hanlon, J. (Not for Publication.)

**A076221 Mediacopy v. Carolyn Sepulona et al**

The judgment is affirmed. Pochè, Acting P.J. We concur: Reardon, J. Hanlon, J. (Not for Publication.)

**DIVISION FIVE**

**A066778 Alene M. Sullivan v. Delta Air Lines**

The judgment against appellant is reversed. Costs to appellant. Jones, J. We concur: Peterson, P.J., Haning, J. (Certified for Partial Publication.)

**A075254 The People v. Bruce Aaron Jones**

The judgment is affirmed. Haning, J. We concur: Peterson, P.J., Jones, J. (Not for Publication.)

Monday, October 27, 1997(continued)

**A075749 The People v. Melvin Bradford Vaughn, III**

**A078467 In re Melvin Bradford Vaughn, III , on Habeas Corpus**

The judgment is affirmed. The petition for habeas corpus is denied.

Haning, J. We concur: Peterson, P.J., Jones, J. (Not for Publication.)

**A076297 Elaine Murphy v. City of Pacifica et al.**

The judgment is affirmed. Haning, J. We concur: Peterson, P.J., Jones, J.  
(Not for Publication.)

**A075692 The People v. Matthew John Doane**

The judgment is affirmed. Peterson, P.J. We concur: Haning, J., Jones, J.  
(Not for Publication.)

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Tuesday, October 28, 1997

DIVISION TWO

**A077786 The People v. Lloyd Lopez**

Our review of the record reveals no arguable error warranting further briefing; the judgment is accordingly affirmed. Lambden, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

**A075673 The People v. Preston Lee Reed, Jr.**

Accordingly, we deny appellant's request for remand pursuant to *Romero* and affirm appellant's conviction. Ruvolo, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A075971 Michael Ayala et al. v. Millie Yip, et al.**

The order is reversed, and the case is remanded to the trial court for further proceedings consistent with this opinion. Each party is to bear their own costs on appeal. Haerle, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

DIVISION FOUR

**A074356 Larry Abrens et al. v. Allstate Insurance Company**

The judgment is affirmed. Reardon, J. We concur: Pochè, Acting P.J., Hanlon, J. (Not for Publication.)



TUESDAY, OCTOBER 28, 1997(continued)

DIVISION FIVE

**A076863 James Clifford Aaberg v. State Farm Fire and Casualty Company**

The judgment of dismissal is affirmed. The request for issuance of a writ of coram vobis is denied. Peterson, P.J. We concur: Haning, J., Jones, J. (Not for Publication.)

**A076391 The People v. Michael Leon Hiser**

We affirm. Jones, J. We concur: Peterson, P.J., Haning, J. (Not for Publication.)

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

DIVISION THREE

TUESDAY, OCTOBER 28, 1997

Court convened at 1:30 p.m. in its courtroom at Marathon Plaza,  
South Tower Fourth Floor, 303 Second Street, San Francisco., CA.  
Present: Corrigan, Acting P.J.; Walker, J., and J. Casados, Deputy  
Clerk

Justice Corrigan announced that Justice Parrilli would not be present at oral argument. She asked if counsel would have any objection to two justices present at oral argument and agreeing to allow Justice Parrilli (the third justice on the panel) listen to the audio tape of the oral argument session. Counsel had no objection and oral argument proceeded.

A075565     The People,  
                 v.  
                 Karen Rosilyn Turrentine.  
Cause called and argued by Richard Krech, counsel for appellant  
and argued by telephonic Julie Haley, Deputy Attorney General,  
counsel for respondent. Cause ordered submitted.

Court adjourned.

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Wednesday, October 29, 1997

DIVISION ONE

**A078439 The People v. Jaun Jesus Leon Arballo**

The judgment is affirmed. Strankman, P.J. We concur: Stein, J., Swager, J.  
(Not for Publication.)

DIVISION TWO

**A073283 William B. Geiger et al. v. Continental Can Company**

**A073289 Don Delashaw et al. v. Continental Can Company**

The judgment on both appeals (A073283 and A073289) are affirmed.  
Lambden, J. We concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A075139 The People v. Wayne Douglas Benson**

The judgment is affirmed. Kline, P.J. We concur: Haerle, J., Ruvolo, J.  
(Not for Publication.)

**A076142 In re Marriage of Cooper**

**A074566 Nancy B. Cooper v. M. Armon Cooper**

The orders are affirmed. Haerle, Acting P.J. We concur: Lambden, J.,  
Ruvolo, J. (Not for Publication.)

Wednesday, October 29, 1997(continued)

DIVISION THREE

**A074983 John Dennis Deegan v. S.A.W. Entertainment Ltd., Inc. et al.**

The judgment of dismissal is affirmed. Phelan, P.J. We concur: Parrilli, J., Walker, J.(Not for Publication.)

**A073612 The People v. Frank Greg Bamba**

The judgment is vacated and this matter is remanded to the trial court for the limited purpose of allowing the trial court to exercise its discretion pursuant to *Romero*. “If, on remand, the trial court... decides to exercise its discretion to strike [one or both of] the prior felony conviction allegations in furtherance of justice..., the court must set forth the reasons for that decision in strict compliance with section 1385(a). Any such decision will be reviewable for abuse of discretion according to the procedures generally applicable to such decisions.” (*Romero, supra*, 13 Cal.4th at p. 532.) In all other respects, the judgment is affirmed. Parrilli, J. We concur: Corrigan, Actg. P.J., Walker, J. (Certified for Partial Publication.)

**A076321 Fort Bragg Police Association, Inc., et al. v. City of Fort Bragg et al.**

For all the foregoing reasons, the judgment of the trial court is affirmed in its entirety. Costs to respondents. Phelan, P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

DIVISION FOUR

**A074828 Harry Ewing et al. v. Michael Trautman et al.**

The judgment is affirmed with costs to respondents. Hanlon, J. We concur: Pochè, Acting P.J., Reardon, J. (Not for Publication.)

**A076473 John Nady v. Fireman’s Fund Insurance Company**

The judgment is affirmed with costs to respondent. Hanlon, J. We concur: Pochè, Acting P.J., Reardon, J. (Not for Publication.)

Wednesday, October 29, 1997(continued)

DIVISION FIVE

**A078191 In re Cameron N., a Person Coming Under the Juvenile Court law.**

The judgment is affirmed. Haning, J. We concur: Peterson, P.J., Jones, J.  
(Not for Publication.)

**A075675 The People v. David Bruce Morgan**

By the court: The written opinion which was filed September 29, 1997, has now been certified for publication pursuant to Rule 976(b) of the California Rules of Court, and it is therefore ordered that it be published in the official reports. Jones, J. (Acting P.J.)

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Thursday, October 30, 1997

DIVISION ONE

**A079513 In re Michael C., A Person Coming Under the Juvenile Court Law**

The challenged orders are supported by substantial evidence. (James B. v. Superior Court (1995) 35 Cal.App.4th 1014, 1021.) The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; Kowis v. Howard (1992) 3 Cal.4th 888,894; Bay Development, Ltd. v. Superior Court (1990) 50 Cal.3d 1012, 1024.)

The section 366.26 hearing is set for November 14, 1997. Therefore, our decision is final in this court immediately. Strankman, P.J. We concur: Stein, J., Swager, J. (Not for Publication.)

**A076615 The People v. Eric Edwards**

The judgment is affirmed. Dossee, J. We concur: Stein, J., Swager, J. (Not for Publication.)

**A075478 The People v. John Joseph Moore and Michelle Denise Moore**

The judgment is affirmed. Dossee, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

DIVISION TWO

**A078804 The People v. Ross Dunbar Pinckney**

The judgment is affirmed. Ruvolo, J. We concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A078118 The People v. Robert Craig Grandrath**

The judgment is affirmed. Haerle, J. We concur: Kline, P.J., Ruvolo, J. (Not for Publication.)



Thursday, October 30, 1997(continued)

**A080218 In re Russell Todd Crow on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied. Kline, P.J.

**A072963 Alexander “Skip” Spence, an Incompetent Person, etc. v. Matthew Katz**

We affirm the judgment and Katz is to pay costs. Lambden, J. We concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

DIVISION THREE

**A077251 The People v. Isiah Daniels**

We have examined the entire record and have found no arguably meritorious issues to raise on appeal. We therefore affirm the judgment. Parrilli, J. We concur: Phelan, P.J., Walker, J. (Not for Publication.)

**A075722 Beth Weinstein v. St. Mary’s Medical Center**

The judgment is reversed. Costs on appeal are awarded to appellant. Walker, J. We concur: Phelan, J., Parrilli, J. (Certified for Publication.)

DIVISION FOUR

**A076493 The People v. Sidney Lord Williams**

The judgment is affirmed. Saldamando, J.\* We concur: Reardon, J. Acting P.J. Hanlon, J. (Not for Publication.)

\*Judge of the Superior Court, City and County of San Francisco, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

DIVISION FIVE

**A075729 The People v. Joel Ruelas Aguilar**

The judgment is affirmed. Jones, J. We concur: Peterson, J., Haning, J. (Certified for Publication.)





MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Friday, October 31, 1997

DIVISION ONE

**A078832 In re Lionel F., a Person Coming Under the Juvenile Court Law.**

The judgment is affirmed. Swager, J. We concur: Stein, Acting P.J., Dossee, J.  
(Not for Publication.)

DIVISION TWO

**A076507 The People v. Darryl Duane Riley**

The judgment is affirmed Ruvolo, J. We concur: Kline, P.J., Lambden, J.  
(Not for Publication.)

**A076166 The People v. Harold Eugene Phillips**

We conclude that the search in this case was justified, and the intrusion minimal given the government interests at stake. The decision of the trial court is affirmed. Ruvolo, J. We concur: Kline, J., Lambden, J. (Not for Publication.)

**A077963 In re Dante F., a Person Coming Under the Juvenile Court Law.**

Our independent review of the record convinces us that substantial evidence supports the findings in this case and that the disposition was appropriate. We find no meritorious issues to be argued. The judgment is affirmed. Kline, P.J. We concur: Haerle, J. Lambden, J. (Not for Publication.)

Friday, October 31, 1997(continued)

DIVISION THREE

**A074966 Amvest Mortgage Corporation v. Jim Antt Jr.**

The judgment is reversed and remanded with directions to the superior court to issue a writ of mandate directing respondent to set aside its order suspending petitioner's corporate real estate broker's license. Phelan, P.J. We concur: Parrilli, J., Walker, J. (Certified for Publication.)

**A074314 In re Antonio H., a Person Coming Under the Juvenile Court Law.**

We reverse the true finding with respect to the receiving charge, strike the one-year sentence enhancement and affirm in all other respects. The matter is remanded to the trial court for the purpose of amending its minute order and the abstract of judgment to reflect the striking of the one-year armed-with-a-firearm enhancement. Walker, J. We concur: Phelan, P.J., Corrigan, J. (Not for Publication.)

**A074572 Thomas J. Boyle v. Marvin I. Barish**

The amended judgment is reversed, and the cause is remanded with directions to deny the motion to amend and restore the original judgment. Phelan, P.J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

**A076204 The People v. Richard Carl Ownes**

The judgment is affirmed. Corrigan, J. We concur: Phelan, P.J., Walker, J. (Not for Publication.)

**A076134 Larry Butler et al. v. Mutual Service Casualty Insurance Company et al.**

The judgment is reversed. The parties are to bear their own costs on appeal. Corrigan, Act. P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

**A075656 The People v. Frederick Douglas Bennett**

The order after trial granting defendant's new trial motion is reversed. The matter is remanded for further hearing on that motion. Corrigan, Act. P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

Friday, October 31, 1997(continued)

**A077518 The People v. Rafael Lopez**

The order modifying probation is affirmed. Walker, J. We concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

**A076411 Bettye Davis v. California Department of Corrections et al.**

The trial court's order is modified to delete \$35, 583.87, representing expert witness fees, from the award of fees and expenses. As modified, the order is affirmed. Each party shall bear its own costs on appeal. Corrigan, Act. P.J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

**A075565 The People v. Karen Turrentine**

Affirmed. Walker, J. We concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

**A073345 & A075330 Robert Schumacher v. Jeanette Freeman et al., Grubb & Ellis et al.**

The judgement is affirmed. Corrigan, J. We concur: Phelan, P.J., Parrilli, J. (Not for Publication.)

**DIVISION FOUR**

**A077875 County of Alameda v. Tomas Galang, Jr.**

Judgment affirmed. Reardon, J. We concur: Pochè, Acting P.J., Hanlon, J. (Not for Publication.)

**A076906 In re London S., a Person Coming Under the Juvenile Law.**

The order is affirmed. Reardon, J. We concur: Pochè, Acting P.J., Hanlon, J. (Not for Publication.)

Friday, October 31, 1997(continued)

DIVISION FIVE

**A080384 Julia Fortune v. Michael A. Gbadebo**

By the Court: On the court's own motion, the purported appeal herein is dismissed. Peterson, P.J.